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FILED

08 MAR 17 AM 11:10

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY:

CP

DEPUTY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FREDA SUSSMAN,

Plaintiff,

v.

ARMELIA SANI, M.D., SHILEY EYE
CENTER, UCSD MEDICAL CENTER,
REGENTS OF THE UNIVERSITY OF
CALIFORNIA, HEALTH NET OF
CALIFORNIA, INC., HEALTH NET
SENIORITY PLUS, LINDA BEACH,
HAIDEE GUTIERREZ,

DOES 1 through 40, inclusive,

Defendants

Case No. 08CV392 H BLM

NOTICE OF MOTION AND MOTION TO
REMAND

[28 U.S.C. 1447(c)]

Date: 4/14/08

Time: 10:30 a.m.

Dept. 13

Magistrate: Barbara Major

TO THE COURT AND TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

NOTICE IS HEREBY GIVEN that at 10:30 a.m. on April 14, 2008 or as soon thereafter as
possible Plaintiff FREDA SUSSMAN's Motion to Remand her case to California State Court will
be heard in Department 13 of the United States Court located at 940 Front St. San Diego, CA

1 92101. The motion will be based upon the fact that the Federal Court has no jurisdiction over this
2 case.

3 **Relief Desired**

4 Plaintiff moves the Court for order remanding this cause to the Superior Court of
5 California, San Diego County, the Court from which it was improperly and improvidently
6 removed on April 14, 2008 at 10:30 AM in Court Room 13.

7 **Grounds for Motion**

8 Plaintiff is entitled to a remand of this action because, as is more fully explained in the
9 Supporting Memorandum of Points and Authorities:

- 10
- 11 1. Removal was improper in that this court lacks subject matter jurisdiction over this matter.
 - 12 2. In particular, removal was improper because the complaint does not present a claim or
13 right arising under the Constitution, treaties, or laws of the United States. The matter
14 involves a claim for bad faith insurance practices, fraud, and unfair business practices. This
15 claim is grounded solely in the common law and statutes of the State of California.
 - 16 3. This Motion to Remand is timely because it is made within 30 days after the filing of the
17 Notice of Removal in the district court.

18 **Record for Motion**

19 The motion is based on this document, the Notice of Motion, the Certificate of Service, the
20 Supporting Memorandum of Law, all of the papers and records on file in this action, and on
21 whatever argument and evidence the parties may offer at the hearing of this motion.

22
23 Dated:

24 3/13/08

Respectfully Submitted:

HAYWORTH AND SUSSMAN



Nancy Sussman,

Attorney for Plaintiff